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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,621	09/17/2001	Jerry G. Hodsdon	310048-561	6827

7590 10/21/2003

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EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

13

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-13

Office Action Summary

Application N .

09/954,621

Applicant(s)

HODSDON ET AL.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-29 and 44-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-29 and 44-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Rejections Maintained

1. Claims 19-20, 22-26, 28 and 29 are rejected under 35 U.S.C 102(b) as being anticipated by Sato for reasons of record in paper no. 9, paragraph-4, mailed on March 26, 2003.
2. Claims 19-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato for reasons of record in paper no. 9, paragraph-6.

Response to Arguments

3. Applicant's arguments filed August 4, 2003 have been fully considered but they are not persuasive.

Applicant argues that Sato's perforations (34) extend through both the facestock and the liner, that the perforations are on the face of the label and not outside of its parameter, that the perforations are not provided to separate the liner sheet away from the label thereon and that there is no facestock waste portion outside of the label.

These are not deemed to be convincing because Sato clearly teaches a label sheet construction as claimed. To further clarify Sato, as shown in the drawings, particularly figures 6 or 8, the liner has thereon a plurality of units (28). Every other unit (28) is taken to be a label and hence, the cut line (30) through the facestock and not the liner would form a first and/or a second label unit. The perforated line (29) located in the unit (28)

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between two other units (28) is shown to be the weakened line segment in the facestock and extending substantially between said first and second label units. The facestock sheet being bendable as shown in figure-12 and the bendability provides for the label to be separated from the liner when bent as per figure-12.

Thus, in the absence of any evidence to the contrary, it remains the examiners position that the claimed invention is anticipated or rendered obvious over the prior art of record discussed above.

Response to Amendment

The following are new grounds of rejection in view of the newly submitted claims 44-78.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 44-48, 50-55, 57-62, 65, 67, 69, 71-73 and 75-77 are rejected under 35 U.S.C. 102(b) as being anticipated by Sato.

Sato relates to a label sheet construction (figure-6) comprising a liner sheet (27), a facestock sheet (25) adhered to the liner sheet, at least one cut line (30) through the facestock sheet and not through the liner sheet to form a facestock label releasably adhered to the liner sheet. The label is taken to be at least on unit (28), spaced from a

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second label unit by an intermediate unit, and a first weakened line segment (29) in the facestock sheet intermediate unit on one side of the label (28) and a second weakened line segment (29) located on the opposite side of the label (28) in another intermediate unit. The lines segments lying in the same line and extends substantially from a first side edge to an opposite second side edge as shown by the perforation line (29), which is a discontinuous line. The facestock is bendable as shown in figure-12. The weakened line segment (29) is a cut line through the facestock sheet to the liner sheet and is spaced a short distance from the label. Further, the unit (28) on which the line segment (29) is located is taken to be the waste portion.

The intended use phrases such as "being bendable", "can be grasped", etc. have not been given patentable weight as said phrases are not deemed to be of positive limitation.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 44-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato

Sato, as discussed above, fails to teach that the label has burst configuration with alternating long and short points. It would have been obvious matter of design choice to modify Sato's label by providing a burst configuration with long and short points

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because such a change would have involved a mere change in the shape of a product for aesthetic appeal.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

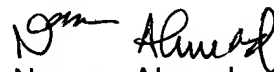
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is (703) 308-4424. The examiner can normally be reached on Monday through Thursday from 7:30AM to 5:00PM. The examiner can also be reached on alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703) 308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.

October 20, 2003.